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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|--|-------------|------------------------|-----------------------|------------------|
| 09/712,129   | 11/15/2000  | Joseph T. Strupczewski | 2489.0028-11          | 8800             |
| 22852  | 7590        | 05/12/2004             | EXAMINER              |                  |
| FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER<br>LLP<br>1300 I STREET, NW<br>WASHINGTON, DC 20005 |             |                        | COLEMAN, BRENDA LIBBY |                  |
|  |             |                        | ART UNIT              | PAPER NUMBER     |
|  |             |                        | 1624                  |                  |

DATE MAILED: 05/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |                                     |  |
|------------------------------|-------------------------------|-------------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>09/712,129 | Applicant(s)<br>STRUPCZEWSKI ET AL. |  |
|                              | Examiner<br>Brenda Coleman    | Art Unit<br>1624                    |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-75 and 77-147 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-75 and 77-147 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

Claims 1-75 and 77-147 are pending in the application.

This action is in response to applicant's amendment filed February 12, 2004.

Claims 78 and 80 have been amended.

***Response to Amendment***

Applicant's arguments filed February 12, 2004 have been fully considered with the following effect:

1. The applicants' amendments are sufficient to overcome the 35 U.S.C. § 112, second paragraph rejections labeled paragraph 5 of the last office action, which are hereby **withdrawn**.

In view of the amendment dated February 12, 2004, the following new grounds of rejection apply:

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 80 is are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following reasons apply:
  - a) Claim 80 contains and amendment where the following: "wherein X is -O- or -S-;" appears before the structure and not after the structure as it appears in U.S. 5,364,866.

***Oath/Declaration***

3. In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Claims 1-75 and 77-147 are rejected as being based upon a defective reissue oath/declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Coleman whose telephone number is 571-272-0665. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached on 571-272-0674. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Art Unit: 1624

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in cursive script that reads "Brenda Coleman". The signature is fluid and includes a long, sweeping horizontal stroke at the end.

Brenda Coleman  
Primary Examiner Art Unit 1624  
May 10, 2004